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April 25, 2001

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RQ-0378-JC

OPINION COMMITTEE

Honorable John Cornyn
Attorney General of Texas
P. O. Box 12548
Austin, Texas 78711-2548

Certified Mail No. P 255 149 361
Return Receipt Requested

Re: Request for Attorney General's Opinion

FILE # ML-41978-01
I.D. # 41978

Dear General Cornyn:

The Texas Board of Veterinary Medical Examiners is charged with implementing the Veterinary Licensing Act, Chapter 801, Texas Occupations Code. On several occasions, the Board has been confronted with situations that involve the holding of an animal by a veterinarian for non-payment of veterinary medical fees by the owner. We ask your opinion on the following questions:

1. Can a veterinarian refuse to return an animal to the owner of the animal if the owner is unwilling or unable to pay for the veterinary medical services rendered?
2. Can a veterinarian dispose of an animal held for non-payment of the veterinarian's medical fees under §801.357, Texas Occupations Code, on the grounds that the animal is "abandoned" even if the owner makes a good faith effort to arrange with the veterinarian to make installment payments and otherwise insists that he wants the animal returned, but the veterinarian considers such arrangements to be unsatisfactory and refuses to return the animal to the owner?

(Section 801.357, Texas Occupations Code, specifies what actions a veterinarian may take for abandoned animals, but it is unclear at what point the animal is considered to be "abandoned" in light of question 2.)

3. During the period that an animal is held by the veterinarian for nonpayment of veterinary medical fees or abandonment, is the veterinarian obligated to continue medical treatment of the animal if required for the continued well being of the animal?
4. During the period that an animal is held by the veterinarian for nonpayment of

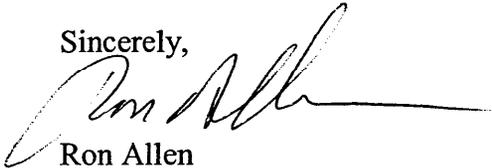
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veterinary medical fees or abandonment, can the veterinarian charge the owner for necessary treatment of the animal and also boarding fees?

Enclosed is an internal memorandum of the Attorney General's Office dated January 23, 1990 that speaks to some of these issues, but it is not clear if the memorandum represents an "official" opinion of the Attorney General. In addition, one previous attorney on the staff of the Board has questioned whether the assertion in the memorandum that a lien attaches for non-payment of veterinary fees reflects the current state of the law. The attorney's memorandum dated February 20, 1998 is also enclosed.

Your consideration of these questions is appreciated.

Sincerely,

A handwritten signature in black ink, appearing to read "Ron Allen", with a long horizontal flourish extending to the right.

Ron Allen
Executive Director

enc.